

REMARKS/ARGUMENTS

Claims 1-31, and 37-43 are pending in the application. Claims 1, 11, 13, 19, and 25 have been amended. Favorable reconsideration of the application, as amended, is respectfully requested.

I. OBJECTION TO THE DRAWINGS

The drawings stand objected to due to handwritten labels in Figs. 2D and 2E. Formal drawings of Figs. 2D and 2E have been submitted herewith. Withdrawal of the objection is respectfully requested.

II. CLAIM OBJECTIONS

Claims 10, 13-18, and 25 stand objected to due to informalities. Claims 10 and 25 have been amended to address the Examiner's concern.

Regarding claims 13-18, "the CMTS" (for example, in line 4 of claim 13) is defined as "[a] CMTS designed or configured to act as a protection CMTS for a cable network having a working CMTS that provides normal service to a cable modem and the protection CMTS" Therefore, it is respectfully submitted that "the CMTS" refers to a device having the capability of acting as the protection CMTS. Applicants believe that no correction is necessary for claims 13-18 since it is clear from the plain meaning of these claims that the "the CMTS" has particular attributes that allow it to assume the state a protection CMTS should the need arise.

Withdrawal of the objections is respectfully requested.

III. CLAIM REJECTION

Claim 38 stands rejected due to lack of antecedent basis. Claim 38 has been amended to address the Examiner's concern. Withdrawal of the rejection is respectfully requested.

IV. REJECTIONS OF CLAIMS 1-37 UNDER 35 U.S.C. §§ 102 AND 103

Claims 1-2, 4, 6, 8-10, 13-14, 17-20, 22-24, and 43 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,449,250 ("Otani"). Claim 11 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,148,410 ("Baskey"). Claims 3, 5, 7, 15, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Otani and U.S. Patent No. 6,438,123 ("Chapman"). Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Baskey. Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Otani and U.S. Patent No. 6,577,642 ("Fijolek"). Claims 25, 26, 28, 30, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Otani and Baskey. Claims

27 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Otani, Baskey, and Fijolek. Claims 37 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Otani, Baskey, and U.S. Patent No. 6,577,642 ("Unger"). Claims 38 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Otani. Claims 39 and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Otani and Fijolek. Claim 42 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Otani, Fijolek, and Unger. Applicants believe that all pending claims are allowable for at least the following reasons. Withdrawal of the rejections is respectfully requested.

Independent claims 1, 11, 19, 25, 38, and 43 have been amended to further clarify one of the aspects of the invention. Specifically, independent claims 1, 11, 19, 25, 38, and 43 require "pre-registration" of a cable modem with a protection CMTS, i.e., "registering the cable modem with the protection CMTS before or after it registers with the working CMTS and prior to the working CMTS becoming unavailable." Independent claim 13 contains recitations similar to those of claims 1, 11, 19, 25, 38, and 43. Support for the amendments is found at, for example, page 10, lines 16-24; page 11, lines 26-32; and page 13, lines 7-21 of the present specification. No new matter has been introduced by these amendments.

As described at, for example, page 10, lines 16-24; page 11, lines 26-32; and page 13, lines 7-21 of the present specification, the invention defined in independent claims 1, 11, 13, 19, 25, 38, and 43 is directed to pre-registration of a cable modem with a protection CMTS. For example, a specific exemplary embodiment of the invention involves a modified registration process, in which a cable modem pre-registers with a protection CMTS prior to the working CMTS becomes unavailable, and the protection CMTS remains in a protection state ready to take over service to the cable modem when the working CMTS becomes unavailable. None of the cited references teach or suggest this pre-registration with the protection CMTS as claimed.

The Otani patent generally relates to switching a plurality of central devices. However, nothing in Otani suggests the claimed pre-registration with a protection CMTS. As described at column 7, lines 15-19 of the Otani patent, it is only after a failure occurs on the device (e.g., device 10) that the protection device inherits the information of the failed device which is transmitted by the monitoring program. Therefore, Otani cannot be said to teach or suggest the claimed pre-registration feature of the invention recited in independent claims 1, 11, 13, 19, 25, 38, and 43.

The Baskey patent is directed to synchronization of multiple routers. As the Examiner admits in the Office Action, the synchronization between the two routers is triggered only after the primary router fails. See, column 4, lines 54-67 of Baskey. Therefore, Baskey fails to teach or suggest the claimed pre-registration feature of independent claims 1, 11, 13, 19, 25, 38, and 43.

The Chapman patent was cited as describing a voice over internet protocol (VoIP) application. However, Chapman is silent on the claimed pre-registration aspect of the invention. As such, Chapman also fails to teach or suggest the claimed pre-registration feature of independent claims 1, 11, 13, 19, 25, 38, and 43.

In summary, Applicants find nothing in the prior art that suggests the claimed pre-registration feature as recited in independent claims 1, 11, 13, 19, 25, 38, and 43. Therefore it is respectfully submitted that the invention defined in independent claims 1, 11, 13, 19, 25, 38, and 43, and their dependent claims is patentable over the cited art. Withdrawal of the rejections is respectfully requested. If the Examiner believes that pre-registration as claimed is somehow implicitly suggested in the art of record, Applicants respectfully encourage the Examiner to contact the undersigned so that meaningful progress can be made toward resolution of this case.

V. CONCLUSION

Applicants believe that all pending claims are in condition for allowance, and respectfully request a Notice of Allowance at an early date. If the Examiner has any continuing concerns about patentability of the claimed invention, he is encouraged to telephone the undersigned at 510-843-6200, ext 245.

Respectfully submitted,
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Limited Recognition under 37 CFR § 10.9(b)

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